RECENT CASES

BANKRUPTCY—POWER OF STATE AND NATION—NATIONAL LAW SUPREME.—HURLEY V. DEVLIN, 151 FED. 919.—*Held,* that Congress may pass laws making such distribution of bankrupt's property, dividing it among his creditors, his wife and the bankrupt, as seems proper to it, without interference from state laws.

A state legislature has power to pass bankrupt and insolvency laws, so long as they do not interfere with any national law on the subject, and do not impair the obligation of a contract. *Sturgis v. Crowninshield,* 4 Wheat. 122; *Ogden v. Saunders,* 12 Wall. 213; *Baldwin v. Hale,* 1 Wall. 223; *Hoyle v. Zacharie,* 6 Peters 635. When Congress passes a bankrupt law any state law concerning the same matter becomes suspended. *Ex parte Eames,* Fed. Cases, No. 4237; *In re Reynolds,* 8 R. I. 485. One case held that a state could not pass bankrupt laws, even in the absence of action by Congress. *Golden v. Prince,* Fed. Cas. No. 5509. It is now recognized that a state may pass an insolvent law, but it is superseded by national bankrupt law in so far as they conflict. *Appeal of Geery,* 43 Conn. 289; *Fisk v. Montgomery,* 21 La. Ann. 446. Congress has power to destroy a lien on the property of a bankrupt. *In re Jordan,* Fed. Cas. No. 7514; *Bank of Columbia v. Overstreet,* 73 Ky. 148. American bankrupt laws apply to any debtor; English apply only to fraudulent traders. *In re Klein,* Fed. Cas. No. 7865. The bankrupt's assignee is not entitled to bankrupt's wife's choses in action not reduced to possession. *In re Snow,* Fed. Cas. No. 13,142. Nor is he entitled to property of a bankrupt's minor children, acquired by their endeavors, and standing in their name. *Ex parte Tebbets,* Fed. Cas. No. 13,816.

CARRIERS—FREE PASSES—INJURY TO PASSENGERS—LIABILITY.—BRADBURN V. WHATCOM COUNTY RY. & LIGHT CO., 88 PAC. 1020 (WASH.).—*Held,* that a street railroad carrying a police officer free of charge as required by a municipal ordinance is liable for injuries sustained by him through the negligence of its motorman in charge of the car, though the ordinance is in conflict with Constitution, article 2, section 39, and article 12, section 20, prohibiting the granting of passes to officers.

CARRIERS—INJURY TO PASSENGERS—EXEMPLARY DAMAGES.—CLEVELAND, C., C. & ST. L. R. CO. V. OFFUTT, 104 S. W. 359 (KY.).—Where a passenger was injured in a collision between the car on which he was riding and the engine of another train, when both trains were moving slowly and the engine merely grazed the side of the car, and the cause of the accident appeared to be an error of judgment as to the space within which the incoming train would stop or to its arriving a few seconds before expected, *held,* that the circumstances were insufficient to justify the award of exemplary damages, even though the plaintiff claimed the jar threw him against the arm of the seat, and injured his hip and back, Carroll and Nunn, JJ., *dissenting.*

Exemplary damages may be given when a personal injury has been caused by the gross carelessness of a railroad company, in the management of its trains. *Hopkins v. The Atl. & St. Law. R. R.,* 36 N. H. 9. While such damages will not be given to a passenger who has been injured in a collision, caused by the negligence of the employees of a railroad, unless it is the result of their reckless indifference. *Milwaukee & St. Paul Ry. Co. v. Arms, et al.,*

91 U. S. 489. And for an error in judgment the employers are not liable for punitive damages. *Louisville & N. R. Co. v. Ferrel,* 7 Ky. Law. Rep. 607. But where, with full knowledge of the approach of a passenger train, or the time of its approach, the employees of the company left a switch open, and as a result, there was a collision, causing the injury of a passenger, there was such a degree of neglect as to authorize an instruction as to punitive damages. *Louisville & N. R. Co. v. Kingman,* 35 S. W. 264 (Ky.).

CARRIERS—PASSENGERS—COMMUNICATION OF CONTAGIOUS DISEASE—PROXIMATE CAUSE.—MISSOURI, K. & T. RY. CO. v. RANEY, 99 S. W. 589 (TEX.).—*Held,* that the act of a railway ticket agent infected with smallpox in exposing himself to plaintiff, who purchased tickets from him, was the proximate cause of plaintiff's wife contracting the disease, where plaintiff contracted it and communicated it to her.

CARRIERS—REFUSAL TO HONOR TICKETS—DAMAGES—MENTAL SUFFERING. —ST. LOUIS SOUTHWESTERN RY. CO. OF TEXAS V. CRANE, 102 S. W. 739 (TEX.)—*Held,* that the defendant was not liable for the mental suffering and humiliation arising from the fact that plaintiff was compelled to borrow money from her brother with which to pay her fare, her ticket represented by defendant as good on connecting line to destination, being refused.

At Common Law mental suffering must be connected with physical injury or other element of damage to person or property. *Lynch v. Knight,* 9 H. L. C. 577; *W. U. Tel. Co. v. Rogers,* 68 Miss. 748. Federal Courts hold the same doctrine. *Chase v. W. U. Tel. Co,* 44 Fed. Rep. 554. In *So. Relle v. W U. Tel. Co.,* 55 Tex. 308, mental suffering was not natural consequence, yet damages were allowed, but this decision was overruled in conformity with the general rule of law that injury complained of must be proximate result of negligence or wanton act. *Stuart v. W. U. Tel. Co.,* 66 Tex. 580; *Texas & Pacific Ry. Co. v. Bigham,* 90 Tex. 223; *Hale, Damages,* 39 and 40. This rule, consistently adhered to by Texas courts, is supported in *Dawson v. Louisville N. R. Co.,* 6 Ky. Law Reports 668, and in *Hoffman v. Northern Pacific R. Co.,* 47 N. W. 312 (Minn.). It was held that although money had to be borrowed to pay fare the mental suffering occasioned thereby was too remote to afford a basis for damages.

COMMERCE—INTERSTATE COMMERCE—SUBJECTS OF STATE TAXATION— LOVERIN & BROWN CO. V. TANSIL ET AL., 102 S. W. 72 (TENN.).—*Held,* that where goods are shipped in accordance with a general order, by a foreign mercantile corporation to a salesman in another state, in barrels and boxes which are opened by the salesman, and the goods separated and arranged for delivery to purchasers, that such corporation was not engaged in interstate commerce, but as a retail merchant, where transactions were made, and so liable to privilege taxes imposed upon local merchants.

Interstate Commerce is regulated by Congress. Const. Art. I. Section 8, section 3. Goods brought into a state in original package and remaining in that condition are within the protection of the clause. *Bradford v. Stevens,* 10 Gray 379; *Lincoln v. Smith,* 27 Vt. 335; *Schollenberger v. Penn.,* 171 Pa. 1. An original package,within the meaning of the law of interstate commerce, is the package delivered by the importer to the carrier, at the initial point of shipment, in the exact conditon in which it was shipped. *Guckenheimer v. Sellers,* 81 Fed. Rep. 997. In the so-called liquor cases an attempt was made to evade state laws by shipping bottles in an open box and selling the separate bottles as original packages, but the courts held that if anything was an